

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

<p>WAH SYLJERVID,  Plaintiff,  vs.  LT. HANSEN, IN HIS/HER INDIVIDUAL AND OFFICIAL CAPACITY; ASSOCIATE WARDEN COOK, IN HIS INDIVIDUAL AND OFFICIAL CAPACITY; CHIEF WARDEN DARREN YOUNG, IN HIS INDIVIDUAL AND OFFICIAL CAPACITY; DOUG CLARK, DEPUTY SECRETARY OF CORRECTIONS, IN HIS INDIVIDUAL AND OFFICIAL CAPACITY; AND MIKE LEIDHOLT, SECRETARY OF CORRECTIONS, IN HIS INDIVIDUAL AND OFFICIAL CAPACITY;  Defendants.</p>	<p>4:21-CV-04125-LLP  ORDER GRANTING PLAINTIFF'S MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS AND REQUIRING PLAINTIFF TO PAY AN INITIAL PARTIAL FILING FEE</p>
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Plaintiff, Wah Syljervid, filed a pro se lawsuit under 42 U.S.C. § 1983. Doc. 1. Syljervid filed a motion for leave to proceed in forma pauperis and provided the Court with his prisoner trust account report. Docs. 2, 5. Under the Prison Litigation Reform Act, a prisoner who "brings a civil action or files an appeal in forma pauperis . . . shall be required to pay the full amount of a filing fee." 28 U.S.C. § 1915(b)(1). The court may, however, accept partial payment of the initial filing fee where appropriate. Therefore, "[w]hen an inmate seeks pauper status, the only issue is whether the inmate pays the entire fee at the initiation of the proceedings or over a period of time under an installment plan." *Henderson v. Norris*, 129 F.3d 481, 483 (8th Cir. 1997) (quoting *McGore v. Wrigglesworth*, 114 F.3d 601, 604 (6th Cir. 1997)).

The initial partial filing fee that accompanies an installment plan is calculated according to 28 U.S.C. § 1915(b)(1), which requires a payment of 20 percent of the greater of:

(A) the average monthly deposits to the prisoner's account; or

(B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint or notice of appeal.

Syljervid reported an average monthly balance for the past six months to his prisoner trust account of \$57.37, and an average monthly deposit of \$154.95. Doc. 5. Based on this information, the Court grants Syljervid leave to proceed in forma pauperis, but he must pay an initial partial filing fee of \$30.99 (20 percent of his average monthly deposit). Syljervid must pay the initial partial filing fee of **\$30.99 by August 26, 2021**. Failure to pay the filing fee by August 26, 2021, will result in dismissal without prejudice of Syljervid's Complaint.

Thus, it is ORDERED:

1. That Syljervid's motion for leave to proceed in forma pauperis (Doc. 2) is granted. Syljervid will make a payment of **\$30.99 by August 26, 2021**, made payable to the Clerk, U.S. District Court. If Syljervid does not pay the initial partial filing fee by August 26, 2021, his Complaint will be dismissed without prejudice. The Court will conduct a 28 U.S.C. § 1915A screening after he pays his initial partial filing fee.
2. That the institution having custody of Syljervid is directed that whenever the amount in Syljervid's trust account, exclusive of funds available to him in his frozen account, exceeds \$10.00, monthly payments that equal 20 percent of the funds credited the preceding month to Syljervid's trust account shall be forwarded to the U.S. District Court Clerk's Office under to 28 U.S.C. § 1915(b)(1), until the \$350 filing fee is paid in full.

DATED July 20, 2021.

BY THE COURT:

ATTEST:  
MATTHEW W. THELEN, CLERK

Matthew Thelen

Lawrence L. Piersol  
Lawrence L. Piersol  
United States District Judge